



LOUISIANA STATE LAW INSTITUTE

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December 17, 2013

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

Representative Charles "Chuck" Kleckley
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804-9062

RE: SCR NO. 36 of 2012

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2012 Senate Concurrent Resolution No. 36, relative to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Sincerely,

A handwritten signature in black ink that reads "William E. Crawford".

William E. Crawford
Director

WEC/puc

cc: Senator Yvonne Dorsey-Colomb

e-mail cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
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**LOUISIANA STATE LAW INSTITUTE
ADULT GUARDIANSHIP COMMITTEE**

**INTERIM REPORT TO THE LOUISIANA LEGISLATURE IN RESPONSE TO
SENATE CONCURRENT RESOLUTION NO. 36 OF THE 2012 REGULAR SESSION
RELATIVE TO THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE
PROCEEDINGS JURISDICTION ACT (UAGPPJA)**

**December 17, 2013
Baton Rouge, Louisiana**

J. Randall Trahan, Reporter

Claire Popovich, Staff Attorney

**LOUISIANA STATE LAW INSTITUTE
ADULT GUARDIANSHIP COMMITTEE**

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During the 2012 Regular Legislative Session, the Louisiana Legislature passed Senate Concurrent Resolution No. 36. In this resolution, the legislature requests that the Louisiana State Law Institute study the "inclusion of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Louisiana Law." Specifically, the resolution seeks to have the Law Institute provide specific recommendations for including the UAGPPJA in Louisiana law. Due to the subject matter of the resolution, the Law Institute created a new committee, the Adult Guardianship Committee, to study this resolution.

The Committee is headed by the Reporter, LSU Law Center Professor J. Randall Trahan, Louis B. Porterie Professor of Law and Saul Litvinoff Distinguished Professor of Law. The Committee has fourteen members from the bench and bar who have decades of legal experience ranging from successions law to elder law.

The Committee has spent considerable time and effort in considering the "UAGPPJA" and the concomitant issues that arise from trying to fit it within the context of Louisiana law. To date, the Committee has had two committee meetings. They were held on April 5, 2013 and November 15, 2013. A third meeting was scheduled for August 30, 2013 but was cancelled due to illness. At the two meetings, the Committee spent hours considering the UAGPPJA and how it would interact with and affect current Louisiana law. Prior to the November meeting, the Reporter drafted three different alternative versions of the first two articles of the uniform Act. These two articles are the longest and most substantial portions of the Act. Each of the versions was based on three different drafting choices that the Committee members could make depending upon how unique Louisiana legal terms should be defined and employed throughout the Act. The Committee will hold its next committee meeting in early 2014. At this meeting the Committee will decide which of the Reporter's three Louisiana-specific versions of the Act it should to use. From there the Committee will delve into the remaining articles of the Act and submit its recommendations to the Council of the Louisiana State Law Institute for its consideration and guidance.

The Committee will continue to study the UAGPPJA and how it can be included successfully within Louisiana law. The Law Institute will render a comprehensive final report to the legislature when it believes that it would be appropriate to do so.

Respectfully submitted,

J. Randall Trahan, Reporter
Adult Guardianship Committee
Louisiana State Law Institute

SENATE CONCURRENT RESOLUTION NO. 36

BY SENATOR DORSEY-COLOMB

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study inclusion of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Louisiana law.

WHEREAS, Louisiana should provide the highest quality in services, personal care and protection, and legal assistance for our state's senior citizens, those who are physically and mentally disabled, and others under guardianship; and

WHEREAS, many of these persons need the services of a tutor, guardian or conservator to be able to handle their personal and legal affairs; and

WHEREAS, with a population that is both aging and mobile, there is a demonstrated need for assistance for this population in transferring or recognizing an existing guardianship or conservatorship across state lines; and

WHEREAS, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) was drafted and approved in 2007 by the National Conference of Commissioners for Uniform State Laws, specifically to address jurisdictional, transfer and enforcement issues relating to adult guardianships and protective proceedings; and

WHEREAS, the UAGPPJA is designed to help resolve jurisdictional disputes, transfer guardianship cases between states, and provide recognition and enforcement of guardianship or protective orders across state lines by facilitating communication and cooperation between courts of different jurisdictions concerning guardianship or protective proceedings; and

WHEREAS, the UAGPPJA has been endorsed by Louisiana's Elder Law Task Force, the American Bar Association, the National Academy of Elder Law Attorneys, the National College of Probate Judges, the Conferences of Chief Justices and State Court Administrators, the National Guardianship Association and the Alzheimer's Association; and

WHEREAS, UAGPPJA legislation is pending this year in Hawaii, Maine, Massachusetts, Mississippi, Ohio and Pennsylvania, and being studied in California, Michigan, New York, and Georgia; and

WHEREAS, Louisiana presently provides for its guardianship procedure through its interdiction and tutorship articles and statutes, which are currently scattered throughout the Louisiana Civil Code, the Louisiana Code of Civil Procedure, and the Louisiana Revised Statutes of 1950; and

WHEREAS, the purpose of an act such as the UAGPPJA is to provide uniformity of terminology and structure so that a person's guardianship and protective proceedings may be recognized and transferred as near-seamlessly as possible across state lines, while respecting the existing structure of Louisiana's current articles addressing interdiction or guardianship.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study and develop recommendations regarding inclusion of the UAGPPJA in Louisiana law.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall report its recommendations to the Legislature of Louisiana on or before January 1, 2014.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES